

Application No.: 10/708,054

Docket No.: 60680-1812

As a preliminary matter, Applicant asserts that the restriction is improper. While the Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)), the subject matter is sufficiently related that a through search for the subject matter of one of the species would encompass a search for the subject matter of the other species. See MPEP §803, which states that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." This policy should apply in the present application to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office, especially as the prior examiner in this case, did in fact, examine all of the claims and issue an office action on the merits. This fact alone demonstrates that was no "serious burden" in examining all of the pending claims. Moreover, Applicants were forced to expend substantial time and expense in responding to previous office action, as well as the present election/restriction requirement. Therefore, it is respectfully requested that the restriction requirement be withdrawn, and that each of the claims 1-14 presently pending in the application be examined.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 60680-1812 from which the undersigned is authorized to draw.

Dated: October 2, 2006

Respectfully submitted,

By 

Kristin L. Murphy

Registration No.: 41,212

RADER, FISHMAN &amp; GRAUER PLLC

Correspondence Customer Number: 10291

Attorney for Applicant

R0376270.DOC